

09-3274
LOCALLY ASSESSED PROPERTY
TAX YEAR: 2009
SIGNED 07-06-2010
COMMISSIONERS: R. JOHNSON, D. DIXON, M CRAGUN
DISSENT: M. JOHNSON

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER Petitioner, v. BOARD OF EQUALIZATION OF SALT LAKE COUNTY, UTAH, Respondent.	ORDER DENYING MOTION TO RECONSIDER Appeal No. 09-3274 Parcel Nos. Multi Tax Type: Property Tax/Locally Assessed Tax Year: 2009 Judge: Phan
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STATEMENT OF CASE

This matter came before the Utah State Tax Commission upon Respondent's Motion for Reconsideration dated July 26, 2010, filed in response to the Commission's July 6, 2010 Order to Reconvene. The Commission issued an Order Allowing Response on August 2, 2010. Petitioner's Memorandum in Opposition to Respondent's Motion arrived in the Commission's office on August 16, 2010. The Commission received Respondent's Reply Memorandum on August 26, 2010.

APPLICABLE LAW

(1) (a) Within 20 days after the date that an order is issued for which review by the agency or by a superior agency under Section 63G-4-301 is unavailable, and if the order would otherwise constitute final agency action, any party may file a written request for reconsideration with the agency, stating the specific grounds upon which relief is requested.

(b) Unless otherwise provided by statute, the filing of the request is not a prerequisite for seeking judicial review of the order.

(2) The request for reconsideration shall be filed with the agency and one copy shall be mailed to each party by the person making the request.

(3) (a) The agency head, or a person designated for that purpose, shall issue a written order granting the request or denying the request.

(b) If the agency head or the person designated for that purpose does not issue an order within 20 days after the filing of the request, the request for

reconsideration shall be considered to be denied. (Utah Code Sec. 63G-4-302 (2009)).

(2) Reconsideration. Within 20 days after the date that an order is issued, any party may file a written request for reconsideration alleging mistake of law or fact, or discovery of new evidence. (a) The commission shall respond to the petition within 20 days after the date that it was received in the appeals unit to notify the petitioner whether the reconsideration is granted or denied, or is under review.

(i) If no notice is issued within the 20-day period, the commission's lack of action on the request shall be deemed to be a denial and a final order.

(ii) For purposes of calculating the 30-day limitation period for pursuing judicial review, the date of the commission's order on the reconsideration or the order of denial is the date of the final agency action.

(b) If no petition for reconsideration is made, the 30-day limitation period for pursuing judicial review begins to run from the date of the final agency action. (Utah Admin. Code R861-1A-29(2) (2009)).

DISCUSSION

Respondent requests that the Commission reconsider its July 6, 2010 Order to Reconvene based upon mistake of law. Utah Administrative Rule R861-1A-29 provides that a party may file a written request for reconsideration "alleging a mistake of law or fact, or the discovery of new evidence."

Under this rule, the Tax Commission may exercise its discretion in granting or denying a Petition for Reconsideration and generally will not reconsider based on arguments previously made by the parties. The Respondent appears to primarily rely in its motion upon arguments that it made in its written submissions but then specifically abandoned during the January 19, 2010 Hearing on Issue of Jurisdiction. Therefore, the Commission should deny the Motion to Reconsider.

DECISION AND ORDER

Based upon the foregoing, the Commission denies the Respondent's Motion for Reconsideration. It is so ordered.

DATED this ____ day of _____, 2010.

R. Bruce Johnson
Commissioner Chair

D'Arcy Dixon Pignanelli
Commissioner

Appeal No. 09-3274

Michael J. Cragun
Commissioner

DISSENT

I dissent because I believe the Commission's July 6, 2010 Order to Reconvene is based upon a mistake of law. Therefore, I would grant Respondent's Motion for Reconsideration.

Marc B. Johnson
Commissioner

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